

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

STEVEN MURPHY,

Petitioner,

v.

DOUGLAS J. PRUDDEN,

Respondent,

)  
)  
)  
)  
)  
)  
)  
)  
)  
)

No. 4:14CV869 RWS

**MEMORANDUM AND ORDER**

This matter is before me on petitioner's petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. The petition appears to be time-barred, and as a result, I will order petitioner to show cause why it should not be summarily dismissed.

Petitioner was convicted by a jury of burglary in the second degree and possession of a controlled substance. Missouri v. Murphy, No. 1122-CR05619 (City of St. Louis). On January 18, 2013, the trial court sentenced petitioner to two concurrent prison terms of seven years. Petitioner did not appeal or file a motion for postconviction relief.

Petitioner filed the instant petition on May 5, 2014.

Under 28 U.S.C. § 2244(d):

(1) A 1-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of--

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review . . .

In Missouri, a prisoner has ten days to file a notice of appeal from the date the criminal judgment is rendered. See Mo. Ct. R. 30.01(a); Mo. Ct. R. 81.04(a). As a result, the statute of limitations began to run on January 28, 2013. 28 U.S.C. § 2244(d)(1)(A). No tolling provisions

apply. So, the limitations period expired on about January 28, 2014, and the instant petition appears to be time-barred. As a result, I will order petitioner to show cause why the petition should not be summarily dismissed. See Day v. McDonough, 126 S. Ct. 1675, 1684 (2006) (district court must give notice to petitioner before sua sponte dismissing petition as time-barred).

Accordingly,

**IT IS HEREBY ORDERED** that petitioner shall show cause, no later than June 6, 2014, why the petition should not be dismissed as time-barred.

**IT IS FURTHER ORDERED** that if petitioner fails to show cause, this action will be summarily dismissed.

Dated this 9<sup>th</sup> day of May, 2014.

A handwritten signature in cursive script, appearing to read "Rodney W. Sippe", is written over a horizontal line.

RODNEY W. SIPPEL  
UNITED STATES DISTRICT JUDGE